

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IVAN PAUL WARD, III,)	CASE NO. 4:18-cv-1552
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	
COMMISSIONER OF)	
SOCIAL SECURITY,)	<u>MEMORANDUM OPINION</u>
)	<u>AND ORDER</u>
Defendant.)	

This matter is before the Court upon the Report and Recommendation of Magistrate Judge Thomas M. Parker (ECF #15). On July 9, 2018, Plaintiff, Mr. Ivan Paul Ward, III, filed his Complaint (ECF #1) seeking judicial review of the final decision of the Commissioner of Social Security (“Commissioner”) denying his applications for Disability Insurance Benefits and Supplemental Security Income under Titles II and XIV of the Social Security Act. Pursuant to Local Rule 72.2(b), the case was referred to Magistrate Judge Parker.

On May 20, 2019, the Magistrate Judge issued his Report and Recommendation. The Magistrate Judge found that the Commissioner’s decision denying the Plaintiff’s application for Disability Insurance Benefits and Supplemental Security Income failed to apply proper legal procedures in evaluating the state agency consultants’ opinions. Therefore, the Magistrate Judge recommends the Commissioner’s decision be vacated and the case remanded for further consideration. Objections to the Report and Recommendation were to be filed within 14 days of service. No objections were filed.

Standard of Review for a Magistrate Judge's Report and Recommendation

The applicable standard of review of a magistrate judge's report and recommendation depends upon whether objections were made to that report. When objections are made to a report and recommendation of a magistrate judge, the district court reviews the case *de novo*. FED. R. Civ. P. 72(b) states:

The district judge must determine *de novo* any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

The text of Rule 72(b) addresses only the review of reports to which objections have been made; it does not indicate the appropriate standard of review for those reports to which no objections have been properly made. The Advisory Committee on Civil Rules commented on a district court's review of *unopposed* reports by magistrate judges. Regarding subsection (b) of 72, the advisory committee stated: "When no timely objection is filed, the court need only satisfy that there is no clear error on the face of the record to accept the recommendation." FED. R. CIV. P. 72 advisory committee's notes (citation omitted).

The U.S. Supreme Court stated in *Thomas v. Arn*, 474 U.S. 140, 150 (1985): "It does not appear that Congress intended to require district court review of a magistrate judge's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings."

Conclusion

The Court has carefully reviewed the Report and Recommendation and agrees with the findings set forth therein. The Report and Recommendations of Magistrate Judge Parker (ECF #15) is ADOPTED. The decision of the Commissioner denying Plaintiff's application for Period

of Disability and Disability Insurance Benefits is VACATED and the case REMANDED for further consideration.

Plaintiff's Motion for Summary Judgment (ECF #11) is DISMISSED AS MOOT.

IT IS SO ORDERED.



DONALD C. NUGENT
United States District Judge

DATED: _____

